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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke
12 Probation Against:

Case No. 800-2023-099083

PETITION TO REVOKE PROBATION

13 **PEZ ABRAHAMS, M.D.**
14 **24339 Welby Way**
15 **West Hills, CA 91307-2843**

16 **Physician's and Surgeon's Certificate**
17 **No. A 71500,**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Reji Varghese (Complainant) brings this Petition to Revoke Probation solely in his
21 official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs (Board).

23 2. On or about May 4, 2000, the Board issued Physician's and Surgeon's Certificate
24 Number A 71500 to Pez Abrahams, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was in effect at all times relevant to the charges brought herein, except that said
26 Certificate was subject to an Automatic Suspension Order (ASO), effective September 4, 2013

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1 through August 4, 2015, and was also subject to a Cease Practice Order (CPO), effective March
2 7, 2022, which was lifted on April 14, 2022. Respondent's Certificate will expire on October 31,
3 2025, unless renewed.

4 3. In an action titled *In the Matter of the First Amended Accusation Against Pez*
5 *Abrahams, M.D.*, Case No. 17-2007-184776, the Board issued a decision, effective July 15, 2011,
6 in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the
7 revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on
8 probation for a period of seven (7) years with certain terms and conditions. A copy of that
9 decision is attached as Exhibit A and incorporated by reference.

10 4. In an action titled *In the Matter of the Accusation and Petition to Revoke Probation*
11 *Against Pez Abrahams, M.D.*, Case No. D1-2007-184776, the Board issued a decision, effective
12 August 4, 2015, in which Respondent's Physician's and Surgeon's Certificate was surrendered and
13 accepted by the Board. A copy of that decision is attached as Exhibit B and incorporated by
14 reference.

15 5. In an action titled *In the Matter of the Petition to Reinstate the Revoked Certificate of*
16 *Pez Abrahams, M.D.*, Case No. 800-2020-063423, the Board issued a decision, effective June 2,
17 2021, in which Respondent's Physician's and Surgeon's Certificate was reinstated and
18 immediately revoked. However, the revocation was stayed and Respondent's Physician's and
19 Surgeon's Certificate was placed on probation for a period of five (5) years with certain terms and
20 conditions. A copy of that decision is attached as Exhibit C and incorporated by reference.

21 JURISDICTION

22 6. This Petition to Revoke Probation is brought before the Board, under the authority of
23 the following laws. All section references are to the Business and Professions Code unless
24 otherwise indicated.

25 7. Section 2004 of the Code states:

26 The board shall have the responsibility for the following:

27 (a) The enforcement of the disciplinary and criminal provisions of the Medical
28 Practice Act.

1 (b) The administration and hearing of disciplinary actions.

2 (c) Carrying out disciplinary actions appropriate to findings made by a panel or
an administrative law judge.

3 (d) Suspending, revoking, or otherwise limiting certificates after the conclusion
4 of disciplinary actions.

5 (e) Reviewing the quality of medical practice carried out by physician and
surgeon certificate holders under the jurisdiction of the board.

6 (f) Approving undergraduate and graduate medical education programs.

7 (g) Approving clinical clerkship and special programs and hospitals for the
8 programs in subdivision (f).

9 (h) Issuing licenses and certificates under the board's jurisdiction.

10 (i) Administering the board's continuing medical education program.

11 8. Section 2227 of the Code states:

12 (a) A licensee whose matter has been heard by an administrative law judge of
13 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
14 Code, or whose default has been entered, and who is found guilty, or who has entered
into a stipulation for disciplinary action with the board, may, in accordance with the
provisions of this chapter:

15 (1) Have his or her license revoked upon order of the board.

16 (2) Have his or her right to practice suspended for a period not to exceed one
17 year upon order of the board.

18 (3) Be placed on probation and be required to pay the costs of probation
monitoring upon order of the board.

19 (4) Be publicly reprimanded by the board. The public reprimand may include a
20 requirement that the licensee complete relevant educational courses approved by the
board.

21 (5) Have any other action taken in relation to discipline as part of an order of
22 probation, as the board or an administrative law judge may deem proper.

23 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
24 medical review or advisory conferences, professional competency examinations,
25 continuing education activities, and cost reimbursement associated therewith that are
26 agreed to with the board and successfully completed by the licensee, or other matters
made confidential or privileged by existing law, is deemed public, and shall be made
27 available to the public by the board pursuant to Section 803.1.

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16. The failure to pass the clinical competency assessment program constitutes a violation of Condition 1 of Respondent's probation.

DISCIPLINE CONSIDERATIONS

17. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about July 15, 2011, in a prior disciplinary action titled *In the Matter of the First Amended Accusation Against Pez Abrahams, M.D.*, Case No. 17-2007-184776, Respondent's Certificate was revoked, the revocation stayed and placed on seven (7) years' probation with certain terms and conditions, for sexual exploitation of a patient, gross negligence, and aiding or abetting the unlicensed practice of medicine. That decision is now final and is incorporated by reference as if fully set forth.

18. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about August 4, 2015, in an action titled *In the Matter of the Accusation and Petition to Revoke Probation Against Pez Abrahams, M.D.*, Case No. D1-2007-184776, Respondent's Certificate was surrendered and accepted by the Board, following Respondent's conviction for violating Title 18 United States Code section 1347, Health Care Fraud, a felony. Respondent was sentenced to serve forty-two (42) months in Federal prison and was ordered to pay restitution in the amount of \$3,184,617.00. The record of the criminal proceeding is incorporated as if fully set forth. That decision is now final and is incorporated by reference as if fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in Case No. 800-2020-063423 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 71500 issued to Pez Abrahams, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. A 71500, issued to
Pez Abrahams, M.D.;

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- 1 3. Revoking, suspending or denying approval of Pez Abrahams, M.D.'s authority to
2 supervise physician assistants and advanced practice nurses;
3 4. Ordering Pez Abrahams, M.D., if placed on probation, to pay the Medical Board of
4 California the costs of probation monitoring; and
5 5. Taking such other and further action as deemed necessary and proper.

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8 DATED: AUG 29 2023



REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Medical Board of California Case No. 17-2007-184776

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended)
Accusation Against:)
PEZ ABRAHAM, M.D.) Case No. 17-2007-184776
Physician's and Surgeon's)
Certificate No. A71500)
Respondent.)
_____)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on July 15, 2011.

IT IS SO ORDERED June 30, 2011.

MEDICAL BOARD OF CALIFORNIA

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true
and correct copy of the original on file in this
office.

Signature

Title

Cliff Hamilton
For the Custodian of Records
May 23 2013
Date

By:

Shelton Duruisseau
Shelton Duruisseau, Ph.D., Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CINDY M. LOPEZ
Deputy Attorney General
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Attorneys for Complainant
7

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

Case No. 17-2007-184776

OAH No. 2010070936

12 **PEZ ABRAHAMS, M.D.**
13 6742 Winnetka Avenue
Winnetka, California 91306

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Physician's and Surgeon's Certificate
15 No. A 71500

16 Respondent.
17

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board
23 of California. She brought this action solely in her official capacity and is represented in this
24 matter by Kamala D. Harris, Attorney General of the State of California, by Cindy M. Lopez,
25 Deputy Attorney General.

26 2. Respondent Pez Abrahams, M.D. (Respondent) is represented in this proceeding
27 by attorney Henry Lewin, whose address is 11377 Olympic Blvd., 5th Floor, Los Angeles,
28 California, 90064-1683.

3. On or about May 4, 2000, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 71500 to PEZ ABRAHAMS, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2011, unless renewed.

JURISDICTION

4. First Amended Accusation No. 17-2007-184776 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on January 26, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. 17-2007-184776 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 17-2007-184776. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a prima facie case with respect to the charges and allegations contained in First
4 Amended Accusation No. 17-2007-184776.

5 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
6 discipline and he agrees to be bound by the imposition of discipline by the Board of California as
7 set forth in the Disciplinary Order below.

8 10. Respondent agrees that if he ever petitions for early termination or modification of
9 probation, or if the Board ever petitions for revocation of probation, all of the charges and
10 allegations contained in First Amended Accusation No. 17-2007-184776 shall be deemed true,
11 correct and fully admitted by Respondent for purposes of that proceeding or any other licensing
12 proceeding involving Respondent in the State of California.

13 RESERVATION

14 11. The admissions made by Respondent herein are only for the purposes of this
15 proceeding, or any other proceedings in which the Medical Board of California or other
16 professional licensing agency is involved, and shall not be admissible in any other criminal or
17 civil proceeding.

18 CONTINGENCY

19 12. This stipulation shall be subject to approval by the Medical Board of California.
20 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
21 Board of California may communicate directly with the Board regarding this stipulation and
22 settlement, without notice to or participation by Respondent or his counsel. By signing the
23 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
24 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
25 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
26 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
27 action between the parties, and the Board shall not be disqualified from further action by having
28 considered this matter.

1 boundaries, which takes into account data obtained from the assessment and from the Decision(s),
2 Accusation(s) and any other information that the Board or its designee deems relevant. The
3 Program shall evaluate respondent at the end of the training and the Program shall provide any
4 date from the assessment and training as well as the results of the evaluation to the Board or its
5 designee.

6 Failure to complete the entire Program not later than six months after respondent's initial
7 enrollment shall constitute a violation of probation unless the Board or its designee agrees in
8 writing to a later time for completion. Based on respondent's performance in and evaluations
9 from the assessment, education, and training, the Program shall advise the Board or its designee
10 of its recommendation(s) for additional education, training, psychotherapy and other measures
11 necessary to ensure that respondent can practice medicine safely. Respondent shall comply with
12 Program recommendations. At the completion of the Program, respondent shall submit to a final
13 evaluation. The Program shall provide the results of the evaluation to the Board or its designee.

14 The Program's determination whether or not respondent successfully completed the
15 Program shall be binding.

16 Failure to participate in and complete successfully all phases of the Program, as outlined
17 above, is a violation of probation.

18 Respondent shall not practice medicine until respondent has successfully completed the
19 Program and has been so notified by the Board or its designee in writing.

20 3. PSYCHIATRIC EVALUATION Within 30 calendar days of the effective date of
21 this decision, and on a whatever periodic basis thereafter may be required by the Board or its
22 designee, Respondent shall undergo a psychiatric evaluation (and psychological testing, if
23 deemed necessary) by a Board appointed, board certified psychiatrist who shall consider any
24 information provided by the Board or designee and any other information the psychiatrist deems
25 relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric
26 evaluations conducted prior to the effective date of the Decision shall not be accepted towards the
27 fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and
28 psychological testing.

1 Respondent shall comply with all restrictions, conditions, or treatment, recommended by
2 the evaluating psychiatrist within 15 calendar days after being notified by the Board or its
3 designee. Failure to undergo and complete a psychiatric evaluation and psychological testing, or
4 comply with the required additional conditions or restrictions, is a violation of probation.

5 4. THIRD PARTY CHAPERONE During probation, respondent shall have a
6 third party chaperone present while consulting, examining or treating female patients.
7 Respondent shall, within 30 calendar days of the effective date of the Decision, submit to the
8 Board or its designee for prior approval name(s) of persons who will act as the third party
9 chaperone.

10 Each third party chaperone shall initial and date each patient medical record at the time
11 the chaperone's services are provided. Each third party chaperone shall read the Decision(s) and
12 the Accusation(s), and fully understand the role of the third party chaperone.

13 Respondent shall maintain a log of all patients seen for whom a third party chaperone is
14 required. The log shall contain the: 1) patient name, address and telephone number; 2) medical
15 record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger,
16 in chronological order, shall make the log available for immediate inspection and copying on the
17 premises at all times during business hours by the Board or its designee, and shall retain the log
18 for the entire term of probation. Failure to maintain a log of all patients requiring a third party
19 chaperone, or to make the log available for immediate inspection and copying on the premises, is
20 a violation of probation.

21 Respondent shall provide written notification to respondent's patients that a third party
22 chaperone shall be present during all consultations, examination, or treatment with female
23 patients. Respondent shall maintain in the patient's file a copy of the written notification, shall
24 make the notification available for immediate inspection and copying on the premises at all times
25 during business hours by the Board or its designee, and shall retain the notification for the entire
26 term of probation.

27 5. NOTIFICATION Prior to engaging in the practice of medicine, the respondent
28 shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief

1 Executive Officer at every hospital where privileges or membership are extended to Respondent,
2 at any other facility where Respondent engages in the practice of medicine, including all
3 physician and locum tenens registries or other similar agencies, and to the Chief Executive
4 Officer at every insurance carrier which extends malpractice insurance coverage to Respondent.
5 Respondent shall submit proof of compliance to the Board or its designee within 15 calendar
6 days.

7 This condition shall apply to any change(s) in hospitals, other facilities or insurance
8 carrier.

9 6. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, Respondent
10 is prohibited from supervising physician assistants.

11 7. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all
12 rules governing the practice of medicine in California, and remain in full compliance with any
13 court ordered criminal probation, payments and other orders.

14 8. QUARTERLY DECLARATIONS Respondent shall submit quarterly
15 declarations under penalty of perjury on forms provided by the Board, stating whether there has
16 been compliance with all the conditions of probation. Respondent shall submit quarterly
17 declarations not later than 10 calendar days after the end of the preceding quarter.

18 9. PROBATION UNIT COMPLIANCE Respondent shall comply with the Board's
19 probation unit. Respondent shall, at all times, keep the Board informed of respondent's business
20 and residence addresses. Changes of such addresses shall be immediately communicated in
21 writing to the Board or its designee. Under no circumstances shall a post office box serve as an
22 address of record, except as allowed by Business and Professions Code section 2021(b).

23 Respondent shall not engage in the practice of medicine in Respondent's place of
24 residence. Respondent shall maintain a current and renewed California physician's and surgeon's
25 certificate.

26 Respondent shall immediately inform the Board, or its designee, in writing, of travel to
27 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than
28 30 calendar days.

1 10. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent shall be
2 available in person for interviews either at Respondent's place of business or at the probation unit
3 office, with the Board or its designee, upon request at various intervals, and either with or without
4 prior notice throughout the term of probation.

5 11. RESIDING OR PRACTICING OUT-OF-STATE In the event Respondent should
6 leave the State of California to reside or to practice, respondent shall notify the Board or its
7 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
8 defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in
9 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

10 All time spent in an intensive training program outside the State of California which has
11 been approved by the Board or its designee shall be considered as time spent in the practice of
12 medicine within the State. A Board-ordered suspension of practice shall not be considered as a
13 period of non-practice. Periods of temporary or permanent residence or practice outside
14 California will not apply to the reduction of the probationary term. Periods of temporary or
15 permanent residence or practice outside California will relieve Respondent of the responsibility to
16 comply with the probationary terms and conditions with the exception of this condition and the
17 following terms and conditions of probation: Obey All Laws and Probation Unit Compliance.

18 Respondent's certificate shall be automatically cancelled if Respondent's periods of
19 temporary or permanent residence or practice outside California total two years. However,
20 Respondent's license shall not be cancelled as long as Respondent is residing and practicing
21 medicine in another state of the United States and is on active probation with the medical
22 licensing authority of that state, in which case the two year period shall begin on the date
23 probation is completed or terminated in that state.

24 12. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT
25 In the event Respondent resides in the State of California and for any reason Respondent stops
26 practicing medicine in California, respondent shall notify the Board or its designee in writing
27 within 30 calendar days prior to the dates of non-practice and return to practice. Any period of
28 non-practice within California, as defined in this condition, will not apply to the reduction of the

1 probationary term and does not relieve Respondent of the responsibility to comply with the terms
2 and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar
3 days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of
4 the Business and Professions Code.

5 All time spent in an intensive training program which has been approved by the Board or
6 its designee shall be considered time spent in the practice of medicine. For purposes of this
7 condition, non-practice due to a Board-ordered suspension or in compliance with any other
8 condition of probation, shall not be considered a period of non-practice.

9 Respondent's certificate shall be automatically cancelled if Respondent resides in
10 California and for a total of two years, fails to engage in California in any of the activities
11 described in Business and Professions Code sections 2051 and 2052.

12 13. COMPLETION OF PROBATION Respondent shall comply with all financial
13 obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of
14 probation. Upon successful completion of probation, Respondent's certificate shall be fully
15 restored.

16 14. VIOLATION OF PROBATION Failure to fully comply with any term or
17 condition of probation is a violation of probation. If Respondent violates probation in any
18 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
19 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
20 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
21 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
22 shall be extended until the matter is final.

23 15. LICENSE SURRENDER Following the effective date of this Decision, if
24 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
25 the terms and conditions of probation, Respondent may request the voluntary surrender of
26 Respondent's certificate. The Board reserves the right to evaluate Respondent's request and to
27 exercise its discretion whether or not to grant the request, or to take any other action deemed
28 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,

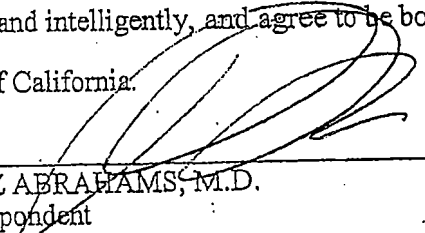
1 Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the
2 Board or its designee and Respondent shall no longer practice medicine. Respondent will no
3 longer be subject to the terms and conditions of probation and the surrender of Respondent's
4 certificate shall be deemed disciplinary action. If Respondent re-applies for a medical license, the
5 application shall be treated as a petition for reinstatement of a revoked certificate.

6 16. PROBATION MONITORING COSTS Respondent shall pay the costs associated
7 with probation monitoring each and every year of probation, as designated by the Board, which
8 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
9 California and delivered to the Board or its designee no later than January 31 of each calendar
10 year. Failure to pay costs within 30 calendar days of the due date is a violation of probation

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
13 fully discussed it with my attorney, Henry Lewin. I understand the stipulation and the effect it
14 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
15 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
16 Decision and Order of the Medical Board of California.

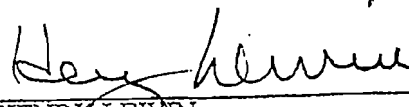
17 DATED: JUNE 12³, 2011


18 PEZ ABRAHAMS, M.D.
Respondent

19 I have read and fully discussed with Respondent Pez Abrahams, M.D., the terms and
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

21 I approve its form and content.

22 DATED: 6/23/2011


23 HENRY LEWIN
24 Attorney for Respondent

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Dated: 6.27.2011

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

CINDY M. LOPEZ
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 17-2007-184776

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 21, 2011
BY: Felchak ANALYST

7
8 BEFORE THE
MEDICAL BOARD OF CALIFORNIA
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10
11 In the Matter of the First Amended Accusation
Against:

12 PEZ ABRAHAMS, M.D.
13 6742 Winnetka Ave.
14 Winnetka, CA 91306

15 Physician and Surgeon's Certificate No. A
71500

16 Respondent.

Case No. 17-2007-184776
OAH No. 2010070936.

FIRST AMENDED ACCUSATION

17
18
19 Complainant alleges:

20 PARTIES

21 1. Linda K. Whitney (Complainant) brings this First Amended Accusation solely in her
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs.

24 2. On or about May 4, 2000, the Medical Board of California issued Physician and
25 Surgeon's Certificate Number A 71500 to PEZ ABRAHAMS, M.D. (Respondent). The Physician
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on October 31, 2011, unless renewed.

28 ///

JURISDICTION

3. This First Amended Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2234 of the Code states:

"The Division of Medical Quality¹ shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

¹ California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Bus. & Prof. Code § 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 "(e) The commission of any act involving dishonesty or corruption which is substantially
2 related to the qualifications, functions, or duties of a physician and surgeon.

3 "(f) Any action or conduct which would have warranted the denial of a certificate."

4 5. Section 2227 of the Code provides that a licensee who is found guilty under the
5 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
6 one year, placed on probation and required to pay the costs of probation monitoring, or such other
7 action taken in relation to discipline as the Division deems proper.

8 6. Section 2264 of the Code states:

9 The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or
10 any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any
11 other mode of treating the sick or afflicted which requires a license to practice constitutes
12 unprofessional conduct.

13 7. Section 2052 of the Code states:

14 "(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who
15 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or
16 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,
17 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition
18 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended
19 certificate as provided in this chapter [Chapter 5, the Medical Practice Act], or without being
20 authorized to perform the act pursuant to a certificate obtained in accordance with some other
21 provision of law, is guilty of a public offense, punishable by a fine not exceeding ten thousand
22 dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a county jail not
23 exceeding one year, or by both the fine and either imprisonment.

24 "(b) Any person who conspires with or aids or abets another to commit any act described in
25 subdivision (a) is guilty of a public offense, subject to the punishment described in that
26 subdivision.

27 "(c) The remedy provided in this section shall not preclude any other remedy provided by
28 law."

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1 squeezing her arms and shoulders, and said he was checking for scars or lacerations. Respondent
2 was not wearing gloves. The gown tore at her upper right breast area, and E.S. tried to cover up,
3 but respondent told her not to. He told her he had to check for lumps on her breasts. Respondent
4 squeezed with his finger tips, then squeezed her breasts with his entire hand. He also checked her
5 arms and upper chest area.

6 14. Respondent checked her legs and feet. He then told E.S. to turn face down on her
7 stomach. He stood next to the table and pressed against the gown's string, which caused it to tear
8 open. He was about one inch away from her. Respondent kept squeezing different parts on her
9 back and buttocks.

10 15. Respondent had E.S. face upwards and again asked if she was a virgin. He reached his
11 hand into her gown and touched her stomach. Respondent repeatedly told E.S. to relax. He then
12 put his hand underneath her underwear and placed his hand between her thighs, claiming he was
13 checking for lumps. E.S. was afraid and wanted to leave. Respondent instructed E.S. to spread
14 her legs, and he pressed on her abdominal area with one hand and kept pressing his other hand
15 over her underwear. E.S. was not in stirrups for any part of the examination.

16 16. Respondent moved his fingers from the left side of her vagina and then to the right.
17 He placed his fingers on her vagina, slowly moved them and then inserted a finger; he did this
18 quickly. E.S. wanted the exam to be finished. She noticed respondent's face was sweating and
19 he had an erection. Respondent had no chaperone in the room and failed to use gloves during the
20 entire examination. She recalled that respondent's fingers looked "peeled back," like they had
21 fungus in his nails.

22 17. E.S. tried to get dressed, but respondent was still in the room. She tried to get him to
23 leave, which he finally did. When respondent left he did not close the door, so while E.S. got
24 dressed, she put her foot on the door to prevent him from coming in.

25 18. E.S. paid respondent \$100 for the exam. She quickly ran out of the office and
26 immediately called her friend, A.T. She told him briefly about the exam, but didn't go into detail.
27 E.S. asked A.T. if he had to disrobe during his I.N.S. exam and he said no. A.T. recalls E.S.
28 crying when explaining this to her. A.T. told E.S. to go to the police.

1 19. E.S. went home and was shaking. Her mother asked where she had been but E.S. did
2 not want to worry her. E.S. called another friend and told her what happened. The next day E.S.
3 called an attorney and he told her to go to the police. E.S. was interviewed by the police, then
4 they took her to respondent's office so she could identify him, which she did. After the incident,
5 E.S. would often call A.T. because she was unable to sleep and he would need to calm her down.

6 20. A.T. went to respondent's office on June 22, 2007, to pick up the paperwork for E.S.
7 A.T. told Respondent that E.S. was his sister. Respondent asked to speak to A.T. privately.
8 Respondent asked A.T. why E.S. reported this to the police, so A.T. asked respondent what
9 happened. Respondent told A.T. he would pay A.T. if E.S. dropped the charges. Respondent
10 also told A.T. his attorneys would "turn them into dust."

11 21. A.T. reported the conversation he had with respondent to LAPD Detective Gosser.
12 The detective set up an undercover operation with A.T., who then scheduled an appointment with
13 respondent and his wife to meet at a restaurant. When A.T. got to the restaurant, respondent's
14 wife was not there. Instead, respondent showed up with a few other men, one of whom was
15 Tony, respondent's brother. The other was a man named Amir. Respondent was not really
16 involved in the conversation. Amir did most of the talking and said respondent was a good doctor
17 and that this was all a misunderstanding. A.T. left because he was nervous, and as he was leaving
18 he heard Amir and Tony say they could "beat up" A.T.

19 22. A few days after the incident between E.S. and respondent, E.S. received threatening
20 telephone calls telling her to drop the case, but she did not know whom they were from. She
21 reported this to Detective Gosser, who traced the call back to someone named Tony. E.S. never
22 went back to respondent's office for her follow up visit.

23 SECOND CAUSE FOR DISCIPLINE

24 (Gross Negligence)

25
26 23. Respondent is subject to disciplinary action under section 2234, subdivision (b) in
27 that he was grossly negligent in his care and treatment of patient E.S. The circumstances are as
28 follows:

24. The facts and allegations set forth in paragraphs 11 through 24 above are incorporated by reference as if fully set forth.

THIRD CAUSE FOR DISCIPLINE

(Aiding or Abetting the Unlicensed Practice of Medicine)

25. Respondent is subject to disciplinary action under section 2264 of the Code in that Respondent employed, directly or indirectly, aided or abetted an unlicensed person to engage in the practice of medicine. The circumstances are as follows:

26. On April 22, 2010, Medical Board investigators went to 6742 Winnetka Avenue in Winnetka, California. The Winnetka Medical Group is located there and respondent is the owner. He hired a woman named Niusha Andalibisalem, aka Niusha Andalibi to work there. Ms. Andalibi is not licensed by the Medical Board of California as a physician and surgeon, nor is she licensed by any other health care related licensing entity within the State of California.

27. The investigators were there on an unrelated case. While the investigators were in the lobby, they heard the front office employee, Ms. Fregoso, refer to Ms. Andalibi as "Dr. Niusha". Niusha Andalibi was wearing a white lab coat and other employees referred to her as "doctor."

28. When the investigator called out "doctor," Ms. Andalibi turned around. She told the investigator her name is Dr. Niussha Andalibi. She stated she had been working at that facility for 2-3 months. She helps respondent consult with patients. She claimed she does not perform physical exams nor prescribes medications. She does not perform procedures because she is a general practitioner and respondent is a cosmetic doctor. She introduced herself to other office staff as "Dr. Niussha," and all the office staff referred to her as a doctor. According to the medical assistant, Ms. Mesrobian, Ms. Andalibi consulted for cosmetic procedures, wrote prescriptions and did physical exams.

29. On or about May 19, 2010, patient A.C.² went into the office she was greeted by Ms. Andalibi. A.C. asked about skin blotching and Andalibi offered to do a free consultation. A.C.

² Patient A.C. was an undercover Sheriff's Department officer. She posed as patient A.C. The identity of this patient will be disclosed in the course of discovery

1 went into the exam room, and Respondent came in. A.C. said that because of her religious
2 beliefs, she wanted a female doctor. Respondent explained that he is the president and does
3 consultations, but that Dr. Niusha would see A.C. Then Andalibi walked into the room.

4 30. Andalibi consulted with and diagnosed A.C. She told the patient she had damaged
5 spots from the sun and that she needed Obagi, and she recommended laser treatment and a
6 specific machine to use. A.C. requested Retina A, and Andalibi told her she needed to use it in
7 combination with the Obagi. Throughout this entire visit, A.C. referred to Andalibi as "Dr.
8 Niusha" and she never corrected A.C. Patient A.C. was not examined by Respondent or any
9 other physician on this visit. Retin A can only be obtained by a prescription from a licensed
10 physician.

11 31. Later that day, A.C. returned to Respondent's office in order to purchase the Obagi
12 and Retina medications. A.C. went into the office and spoke with Andalibi. She was out of
13 Retina A and Obagi, but offered her a trial size package of the Obagi and quoted \$200 along with
14 a prescription for Retina A. The box on the Obagi medication reads: "Obagi products are
15 physician dispensed and should be used under the guidance of your skincare specialist." The
16 products contained in the package are prescription only products. Andalibi took A.C. into an
17 exam room and explained how to use the Obagi, and that she needed to mix the Retin A with the
18 "blender" which is step 5 of the process. The blender contains hydroquinone and is prescription
19 only.

20 32. When Andalibi walked out to the lobby with A.C., she wrote a prescription for Retin
21 A, written on one of Respondent's prescription pads. Again throughout this visit, A.C. referred to
22 Andalibi as "Dr, Andalibi" and was never corrected. Patient A.C. was not seen or examined by
23 Respondent or any other physician on this visit and no prescription for Retin A or Obagi was
24 provided by any physician.

25 Allegations of Assisting in or Abetting the Violation of the Medical Practice Act
26 A. Examining a patient, referring to oneself as an M.D., and prescribing drugs constitute
27 the practice of medicine within the meaning of Code section 2052.

28 ///

1 B. On or about May 19, 2010, Respondent assisted or abetted Andalibi in the practice of
2 medicine in violation of Code section 2234, subdivision (a) and 2052 when Andalibi examined
3 patient A.C. and furnished drugs, Retin A and Obagi, to patient A.C.

4 C. On or about May 19, 2010, Respondent assisted or abetted Andalibi in the practice of
5 medicine in violation of Code section 2234, subdivision (a) and 2052, when Andalibi
6 recommended laser treatment.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Medical Board of California issue a decision:

10 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 71500,
11 issued to PEZ ABRAHAMS, M.D..

12 2. Revoking, suspending or denying approval of Pez Abrahams, M.D.'s authority to
13 supervise physician's assistants, pursuant to section 3527 of the Code;

14 3. Ordering Pez Abrahams, M.D. to pay the Medical Board of California, if placed on
15 probation, the costs of probation monitoring;

16 4. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 1.21.2011

Linda K. Whitney (by C.M.Z.)

19 LINDA K. WHITNEY
20 Executive Director
21 Medical Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant

25
26
27
28 LA2010502010

Exhibit B

Decision and Order

Medical Board of California Case No. D1-2007-184776

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and)
Petition to Revoke Probation Against:)
)
)
PEZ ABRAHAM, M.D.) Case No. D1-2007-184776
)
Physician's and Surgeon's)
Certificate No. A 71500)
)
Respondent.)
_____)

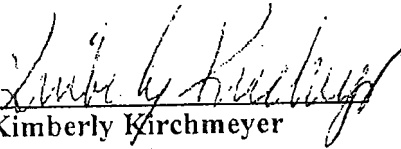
DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 4, 2015.

IT IS SO ORDERED July 28, 2015.

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true and correct copy of the original on file in this office.


Signature

Clerk of Records
Title

May 23, 2013
Date

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CINDY M. LOPEZ
Deputy Attorney General
4 State Bar No. 119988
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-7373
6 Facsimile: (213) 897-9395
Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation and Petition to
11 Revoke Probation Against:

Case No. D1-2007-184776

12 PEZ ABRAHAMS, M.D.
Winnetka Medical Group
13 6742 Winnetka Avenue
Winnetka, CA 91306
14 Physician's and Surgeon's Certificate No. A
71500

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.
16

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California. She brought this action solely in her official capacity and is represented in this
23 matter by Kamala D. Harris, Attorney General of the State of California, by Cindy M. Lopez,
24 Deputy Attorney General.

25 2. Pez Abrahams, M.D. (Respondent) is represented in this proceeding by attorney Jay
26 Hartz at the firm of Hooper, Lundy & Bookman, whose address is 1875 Century Park East, Suite
27 1600, Los Angeles, California 90067.
28

3. On May 4, 2000, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 71500 to Pez Abrahams, M.D. (Respondent). On April 15, 2013, Respondent's license was placed on an Automatic Suspension by the Board based on his conviction and incarceration for fraud. Apart from that, the Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation and expired on October 31, 2013. His renewal fees have not been paid; therefore, he is delinquent.

JURISDICTION

4. Accusation and Petition to Revoke Probation Against Respondent, ("Accusation") No. D1-2007-184776 was filed before the Medical Board of California (Board) and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 9, 2015. A copy of pleading is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. D1-2007-184776. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. D1-2007-184776 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Jay Hartz. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 3/20/15

PEZ ABRAHAM, M.D.
Respondent

1 I have read and fully discussed with Respondent the terms and conditions and other matters
2 contained in this Stipulated Surrender of License and Order. I approve its form and content.

3 DATED: 3/17/15

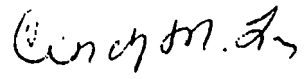
JAY HARTZ
Attorney for Respondent

4
5
6 ENDORSEMENT

7 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
8 for consideration by the Medical Board of California of the Department of Consumer Affairs.

9 Dated: 7.17.15

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


CINDY M. LOPEZ
Deputy Attorney General
Attorneys for Complainant

17 LA 2013609444
18 61195677

Exhibit A

Accusation/Petition to Revoke Probation No. D1-2007-184776

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CINDY M. LOPEZ
Deputy Attorney General
4 State Bar No. 119988
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-7373
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO MARCH 9, 2015
BY: JTELCHAK ANALYST

8 BEFORE THE
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. D1-2007-184776

12 PEZ ABRAHAMS, M.D.

13 ACCUSATION AND PETITION TO
14 REVOKE PROBATION

15 6742 Winnetka Avenue
16 Winnetka, CA 91306

17 Physician's & Surgeon's Certificate A 71500,
Respondent.

18
19 Complainant alleges:

20 PARTIES

- 21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke
22 Probation solely in her official capacity as the Executive Officer of the Medical Board of
23 California ("Board").
24 2. On May 4, 2000, the Board issued Physician's and Surgeon's Certificate number A
25 71500 to Pez Abrahams, M.D. ("Respondent"). On January 21, 2011, a First Amended
26 Accusation was filed against Respondent which alleged sexual exploitation of a patient and aiding
27 and abetting the unlicensed practice of medicine. On July 15, 2011, pursuant to a stipulated
28

1 settlement, Respondent was placed on probation for a period of 7 years upon various terms and
2 conditions of probation. Apart from that, Respondent's license has been in full force and effect at
3 all times relevant to the charges brought herein. His license expired on October 31, 2013. His
4 renewal fees have not been paid, therefore he is delinquent. On September 4, 2013, Respondent's
5 license was placed on an Automatic Suspension by the Board based on his conviction for fraud.

6 JURISDICTION

7 3. This Accusation and Petition to Revoke Probation is brought before the Medical
8 Board of California (Board), Department of Consumer Affairs, under the authority of the
9 following laws. All section references are to the Business and Professions Code unless otherwise
10 indicated.

11 4. Section 2227 of the Code states:

12 "(a) A licensee whose matter has been heard by an administrative law judge of the Medical
13 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
14 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
15 action with the board, may, in accordance with the provisions of this chapter:

16 "(1) Have his or her license revoked upon order of the board.

17 "(2) Have his or her right to practice suspended for a period not to exceed one year upon
18 order of the board.

19 "(3) Be placed on probation and be required to pay the costs of probation monitoring upon
20 order of the board.

21 "(4) Be publicly reprimanded by the board. The public reprimand may include a
22 requirement that the licensee complete relevant educational courses approved by the board.

23 "(5) Have any other action taken in relation to discipline as part of an order of probation, as
24 the board or an administrative law judge may deem proper.

25 "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
26 review or advisory conferences, professional competency examinations, continuing education
27 activities, and cost reimbursement associated therewith that are agreed to with the board and
28 successfully completed by the licensee, or other matters made confidential or privileged by

1 existing law, is deemed public, and shall be made available to the public by the board pursuant to
2 Section 803.1."

3 5. Section 2236 of the Code states:

4 "(a) The conviction of any offense substantially related to the qualifications, functions, or
5 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
6 chapter [Chapter 5, the Medical Practice Act]: The record of conviction shall be conclusive
7 evidence only of the fact that the conviction occurred.

8 "(b) The district attorney, city attorney, or other prosecuting agency shall notify the
9 Division of Medical Quality¹ of the pendency of an action against a licensee charging a felony or
10 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
11 notice shall identify the licensee and describe the crimes charged and the facts alleged. The
12 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
13 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
14 a license as a physician and surgeon.

15 "(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
16 after the conviction, transmit a certified copy of the record of conviction to the board. The
17 division may inquire into the circumstances surrounding the commission of a crime in order to fix
18 the degree of discipline or to determine if the conviction is of an offense substantially related to
19 the qualifications, functions, or duties of a physician and surgeon.

20 "(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
21 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
22 shall be conclusive evidence of the fact that the conviction occurred."

23 //

24 //

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26 //

27 ¹ Pursuant to Business and Professions Code section 2002, "Division of Medical Quality"
28 or "Division" shall be deemed to refer to the Medical Board of California.

1 CAUSE FOR DISCIPLINE

2 (Conviction of a Crime)

3 6. Respondent is subject to disciplinary action under section 2236 in that he was
4 convicted of a crime which is substantially related to the qualifications, functions, or duties of a
5 physician. The circumstances are as follows:

6 7. On or about December 18, 2012, in the case of *United States of America v. Pezhman*
7 *Ebrahimzadeh, aka "Pez Abrahams"*, in the United States District Court for the Central District
8 of California, case number CR 12-1191, Respondent was charged with violating Title 18 United
9 States Code section 1347, Health Care Fraud, a felony.

10 8. It was alleged that Respondent billed Medicare for providing medical services
11 between September 2008 and on or about May 2012. He submitted false and fraudulent claims to
12 Medicare and Medicare paid him over three million dollars.

13 9. On or about April 15, 2013, Respondent was convicted, upon his plea of guilt, of
14 health care fraud, a felony, as charged in the Information.

15 10. On April 15, 2013, Respondent was sentenced to serve 42 months in Federal prison.
16 Respondent was ordered to pay \$3,184,617 in restitution to the victims. Respondent was further
17 ordered to three years supervised probation upon release from prison. As part of Respondent's
18 criminal probation, he was ordered to not be employed in any position that requires licensing
19 and/or certification by any local, state or federal agency without prior approval from his Probation
20 Officer. Respondent was also required to submit a DNA sample and to pay a special assessment.

21 11. On May 1, 2013, Respondent surrendered himself to the Bureau of Prisons. He was
22 incarcerated at FCI Safford, Federal Correctional Institution in Arizona with an expected release
23 date of May 19, 2016.

24 CAUSE TO REVOKE PROBATION

25 (Failure to Obey All Laws)

26 12. On January 21, 2011, a First Amended Accusation was filed against Respondent
27 which alleged sexual exploitation of a patient and aiding and abetting the unlicensed practice of
28 medicine.

14. While on probation, on or about April 15, 2013, Respondent was criminally convicted of health care fraud and was sentenced to 42 months in prison, as set forth above.

"Respondent shall obey all federal, state, and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders."

16. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 7, referenced above.

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 71500, issued to Respondent.
2. Revoking, suspending or denying approval of his authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. If placed on probation, ordering Respondent to pay the costs of probation monitoring;
4. Taking such other and further action as deemed necessary and proper.

March 9, 2015
DATED: _____

Kimberly Kirchmeyer
KIMBERLY KIRCHMEYER
Executive Officer
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

Exhibit C

Decision and Order

Medical Board of California Case No. 800-2020-063423

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to
Reinstate the Revoked Certificate of:

Case No. 800-2020-063423

Pez Abrahams

Physician's and Surgeons
Certificate No. A 71500

Petitioner.

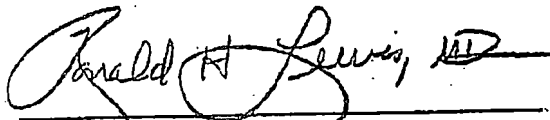
DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 2, 2021.

IT IS SO ORDERED: May 3, 2021.

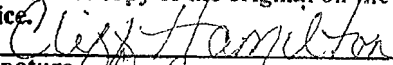
MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that this document is a true
and correct copy of the original on file in this
office.


Signature
for the Custodian of Records
Title

May 23, 2023
Date

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition to Reinstate the Revoked
Certificate of:**

PEZ ABRAHAMS, Petitioner

Agency Case No. 800-2020-063423

OAH No. 2020110218

PROPOSED DECISION

Howard W. Cohen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter remotely by video and teleconference on March 1, 2021.

Peter Osinoff, Attorney at Law, appeared on behalf of petitioner Pez Abrahams, who was present.

Brenda P. Reyes, Deputy Attorney General, appeared under Government Code section 11522.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on March 1, 2021.

FACTUAL FINDINGS

Jurisdiction

1. The Medical Board of California (Board) issued Physician's and Surgeon's Certificate Number A 71500 to petitioner on May 4, 2000. The certificate was scheduled to expire on October 31, 2013. On September 4, 2013, the Board placed the certificate on automatic suspension based on petitioner's criminal conviction for fraud. The certificate expired on October 31, 2013, and petitioner did not renew it. On August 4, 2015, petitioner surrendered his certificate in accordance with a Decision on Stipulated Surrender of License and Accusation and Petition to Revoke Probation in case no. D1-2007-184776.

2. Petitioner filed a Petition for Penalty Relief, Reinstatement of Revoked/Suspended Certificate, dated December 13, 2019 (Petition).

Petitioner's Disciplinary History

2011 STIPULATED SETTLEMENT AND PROBATION

3. In a Decision and Order effective July 15, 2011, in case no. 17-2007-184776 (2011 Decision), the Board adopted a Stipulated Settlement and Disciplinary Order, revoked petitioner's certificate, stayed the revocation, and placed petitioner on seven years' probation on terms and conditions.

4. The Board's executive officer filed the Accusation in case no. 17-2007-184776 on May 25, 2010, and a First Amended Accusation on January 21, 2011. In the Stipulated Settlement, petitioner agreed that, if the Board ever petitioned for

revocation of probation, all of the charges and allegations in the First Amended Accusation would be deemed true, correct, and admitted by petitioner.

5. The First Amended Accusation included factual allegations to support causes for discipline against petitioner for (a) his sexual exploitation of patient E.S., under Business and Professions Code section 726; (b) gross negligence in petitioner's care and treatment of patient E.S., under Business and Professions Code section 2234, subdivision (b); and (c) petitioner's aiding or abetting the unlicensed practice of medicine at the Winnetka Medical Group, which petitioner owned, in violation of Business and Professions Code section 2264.

2013 LICENSE SUSPENSION

6. On September 4, 2013, the Board issued petitioner a Notice of Automatic Suspension of License, based on petitioner's conviction in *U.S. v. Pezhman Ebrahimzadeh, aka Pez Abrahams* (2013, C.D. Cal., no. CR 12-1191) (*U.S. v. Abrahams*). The Board issued the suspension under the authority of Business and Professions Code section 2236.1 (automatic suspension when certificate holder convicted of a felony).

7. In *U.S. v. Abrahams*, petitioner pled guilty to and was convicted of violating Title 18 United States Code section 1347 (health care fraud), a felony. The court sentenced petitioner to serve 42 months in federal prison and ordered him to pay restitution in the amount of \$3,184,617, serve three years of supervised probation upon his release from prison, and not be employed in any position requiring licensure without prior approval of his probation officer. Petitioner was incarcerated at Safford Federal Correctional Institution in Safford, Arizona.

8. The facts and circumstances leading to the fraud conviction were that petitioner, as the owner of and sole physician at Winnetka Medical Group, submitted false and fraudulent claims for payment to the Medicare program from September 2008 to May 2012 for services he had not provided.

2015 LICENSE SURRENDER

9. The Board's executive officer filed an Accusation and Petition to Revoke Probation on March 9, 2015, based on the criminal conviction. In a Decision adopting a Stipulated Surrender of License and Order effective on August 4, 2015, in case no. D1-2007-184776 (2015 Decision), the Board accepted the surrender of petitioner's certificate.

10. Upon the filing of the Petition to Revoke Probation, all of the charges and allegations in the First Amended Accusation in case no. 17-2007-184776 were deemed true, correct, and admitted by petitioner. (See Factual Finding 4, ante.) The First Amended Accusation alleged and charged that petitioner engaged in the sexual exploitation of patient E.S., committed gross negligence in the treatment of patient E.S., and aided and abetted the unlicensed practice of medicine at Winnetka Medical Group. (See Factual Finding 5, ante.)

11. In the Stipulated Settlement, petitioner agreed that, if he were ever to file a petition for reinstatement, "all of the charges and allegations contained in Accusation No. D1-2007-184776 shall be deemed to be true, correct and admitted by [petitioner] when the Board determines whether to grant or deny the petition." (Ex. 6, p. 61.)

12. The Accusation and Petition to Revoke Probation stated factual allegations, based on petitioner's fraud conviction in *U.S. v. Abrahams*, to support a cause (a) for discipline against petitioner for conviction of a crime substantially related to the qualifications, functions, or duties of a physician; and (b) to revoke petitioner's probation, imposed under the 2011 Decision, for violating probation condition 7, which required petitioner to obey all laws.

THE PETITION

13. Upon the filing of the Petition that is the subject of this matter, all of the charges and allegations contained in the Accusation in case no. D1-2007-184776 were deemed to be true, correct, and admitted by petitioner. (See Factual Finding 11, ante.) The Accusation alleged and charged that petitioner was convicted, in *U.S. v. Abrahams*, of a crime substantially related to the qualifications, functions, or duties of a physician, and that petitioner's conviction supported revocation of probation based on his violation of probation condition 7, which required petitioner to obey all laws. (See Factual Finding 12, ante.)

Mitigation and Rehabilitation

14. Petitioner testified he came to this country alone at age 13 in 1979, due to the onset of the Iran revolution. He lived with an American family and obtained a student visa. He obtained a Bachelor of Science degree from UCLA in biochemistry, and a medical degree from Rush Medical College in Chicago. Petitioner started his residency at the Chicago Medical School, transferred to L.A. County USC Medical Center for one more year, and did a preliminary internship in general surgery.

Petitioner was licensed in 2000. Prior to revocation, he primarily performed nonsurgical, noninvasive cosmetic medicine.

15. Petitioner testified he is sorry about his criminal acts, that he was irresponsible and wrong, and his misconduct will never recur. Petitioner committed Medicare fraud from 2008 to 2012 because, he testified, he felt he would not be valued unless he appeared more prosperous than he was. He felt inadequate, was not morally focused, and looked only at financial gain, telling himself he deserved to have "flashy things." A one-year ethics course petitioner was required to take while on probation in 2011 or 2012 helped him begin to fundamentally change his character. His values are no longer driven by money.

16. Petitioner expressed gratitude for being caught committing Medicare fraud, testifying he could not otherwise have become the person he is today. Being convicted changed his values; he underwent more than five years of psychotherapy, performed volunteer work, and vowed not to be the same person who shamed himself, his family, and his community.

17. The 2010 case charging petitioner with aiding and abetting the unlicensed practice of medicine led to his criminal conviction in 2012, when he was placed on 18 months' summary probation. The case was dismissed after six months, on December 6, 2012. Petitioner testified he did not know his assistant had been engaging in the unlawful practice of medicine, "but I don't want to minimize this, I pled no contest." He had not yet been incarcerated on the federal Medicare charge.

18. Petitioner's certificate expired in October 2013; petitioner did not renew it. He does not remember when he ceased practicing medicine.

19. Petitioner has paid about \$2 million of the approximately \$3 million the court ordered him to pay in restitution on the federal Medicare fraud charge. He used all his assets to pay the \$2 million, liquidating three pieces of real estate, including his house and his medical clinic property. Petitioner continues to pay \$25 per month, and is current in his payments. He completed the other terms of criminal probation, including 300 hours of community service, by November 2018.

20. While in prison, petitioner took a six-month Moneysmart course taught by someone who had committed financial crimes, addressing legal business practices, as well as a program on post-traumatic stress disorder (PTSD) to help him adjust to prison; the PTSD program also helped petitioner develop compassion for others. Petitioner attended 12 weeks of Alcoholics Anonymous (AA) and Narcotics Anonymous meetings, not because he was addicted to alcohol or drugs, but because he found the 12-step programs share features of what he described as his spiritual practices. After petitioner's release from prison, he continued attending AA meetings weekly until Covid-19 forced an end to in-person meetings.

21. In June 2015, petitioner was released from prison to a halfway house in Van Nuys, and four months later he was released from the halfway house. He remained on criminal probation. Petitioner completed a residential drug and alcohol program (RDAP), beginning while he was in prison and continuing while he was in the halfway house; for a total of 500 hours. While in prison, petitioner attended RDAP group sessions every day for about six months. He discussed the errors and aberrant behavior that led to his conviction, did some cognitive behavioral therapy, and learned how to avoid recidivism.

22. In 2014, while in federal prison in Arizona, petitioner was extradited to Los Angeles County jail to face recently filed criminal charges of sexual exploitation and improper touching of a patient during an exam in June 2007. Petitioner was arrested in connection with the alleged crime in 2007; he was interviewed by the police and released. On October 30, 2014, both counts in that California criminal case were dismissed, and petitioner was returned to federal prison in Arizona. Petitioner testified he was not told the reason for the dismissal.

23. While petitioner was in L.A. County jail awaiting trial for sexual exploitation, Rabbi Zvi Boyarsky visited petitioner in the capacity of a chaplain. Rabbi Boyarsky has worked for the Aleph Institute, which assists incarcerated people, for 15 years. Rabbi Boyarsky met petitioner about 10 times and discussed transformation, remorse, and rebuilding. Rabbi Boyarsky believes petitioner has a genuine desire to make amends, turn his life around, and become a better person with a more acute sense of ethics. Petitioner blamed no one but himself for his actions and felt very remorseful about the damage he had caused to others and to his family.

24. After release from the halfway house, petitioner and his family have visited Rabbi Boyarsky at home, and petitioner worked for the Aleph Institute for a time. Rabbi Boyarsky testified he observed petitioner working hard to become a moral, kind human being, and petitioner took their conversations about values seriously. Rabbi Boyarsky has stayed in touch with petitioner. Petitioner is in a stable family relationship and has a very loving family. Petitioner told Rabbi Boyarsky he wants to become a doctor again so he can help people and support his family. Rabbi Boyarsky believes petitioner has genuinely transformed, based on numerous conversations and his long experience with incarcerated people. Petitioner has become focused on values

and ethics and how to withstand temptations, and has shown genuine and sincere remorse; that is why Rabbi Boyarsky agreed to testify in this matter.

25. In addition to programs the courts or the Board ordered, such as a 2011 course on professional boundaries, petitioner participated in various programs in prison, including RDAP, AA, PTSD counseling, and Moneysmart, and talking with Rabbi Boyarsky and, later, Rabbi Camras (see Factual Finding 31, *infra*). These programs were not mandatory for petitioner. He testified he wanted to participate due to his desire to become a better person.

26. Petitioner was in psychotherapy after his release from the halfway house. He saw Ladan Safvati, LMFT, for five years. Mr. Safvati confirmed this in a letter dated February 4, 2021. Petitioner testified that, through therapy, he learned that positive moral and therapeutic change are inextricable. He and Mr. Safvati discussed petitioner's inadequacies, the reasons petitioner committed illegal acts, and petitioner's family. They explored how to replace his prior values with healthy ones and implement adaptive coping with stresses. Petitioner testified that therapy helped him find a solid ground of positive core values and harness his selfish impulses. He feels he has a new moral authority and is living with moral integrity.

27. Petitioner volunteers in the community. He made presentations with the American Heart Association from 2016 to March 2020, and continues to volunteer virtually. He also volunteers with Paralyzed Veterans of America, helping veterans who have spinal cord injuries to lead a better life while incapacitated. He counts as success his ability to give back to society to reciprocate for what he took illegally.

28. Petitioner also defines success as being a good role model for his 15-year-old son and 9-year-old daughter. Petitioner's mother died 10 days before the

hearing. While visiting her in the Intensive Care Unit, petitioner saw prominent doctors he had studied with, and knew he wanted to get his life back together and practice medicine again.

29. Petitioner has not been able to find gainful employment. He worked for Uber and Lyft off and on in 2016 and 2017, but stopped because his wife needed the car. Petitioner worked as a receptionist at Perfect Pups Spa, a pet grooming shop, in Simi Valley while residing in the halfway house. Petitioner testified he has sent out between 3,000 and 4,000 resumes online, with no success. He has applied at "big box" stores, also with no success, as well as for a position as a veterinary assistant in Northridge. He receives Supplemental Nutrition Assistance Program and CalFresh benefits, and he and his family are on Medi-Cal. He testified he is very frugal.

30. From 2015 to the present, petitioner has accumulated many continuing medical education (CME) credits. Most are for online courses in general practice-related fields, some focused on cardiology, opioids, diabetes, and oncology. Petitioner also regularly reads medical journals online, including the New England Journal of Medicine and others. He has attended medical billing seminars and teleconferenced weekly with disciplined licensees (Ex. K, pp. 3 & 4.) Petitioner testified he has stayed up to date because medicine is his passion and because he hopes to have his certificate reinstated.

31. Rabbi Richard Camras testified at hearing and wrote a letter to support the Petition. Rabbi Camras met petitioner at his synagogue just prior to petitioner's incarceration in 2013; petitioner expressed remorse and said he had to begin his rehabilitation. After petitioner was released from the halfway house in October 2015, Rabbi Camras met him several times; petitioner said he wanted to start over,

rehabilitate, and volunteer at the synagogue. Petitioner and his family attended some religious services, petitioner joined monthly sessions of the synagogue's men's group to discuss ethics until the Covid-19 pandemic prevented such meetings, and petitioner volunteered monthly at the synagogue to help prepare lunches.

32. Outside the synagogue, petitioner took ethics classes through the Aleph Institute. Petitioner appeared willing to serve the community and offered to pay back all the money the synagogue congregation had lent his family for membership fees and his daughter's preschool tuition. He told Rabbi Camras he wants to prove to himself, his family, and society that he has rehabilitated himself. Rabbi Camras believes petitioner is sincerely committed to rehabilitation, but he has not seen petitioner since the last men's group meeting in February 2020. Petitioner is not a current member of the synagogue; Rabbi Camras does not know whether petitioner attends streaming services online. Rabbi Camras's only engagement with petitioner over the past year was during a telephone call when petitioner's mother died.

33. Petitioner discussed the fraud conviction with Rabbi Camras, not the matters involving sexual exploitation and aiding the unlicensed practice of medicine. Petitioner said he was driven by money and "dark spirits," which were no longer part of his decision-making. He admitted his crime publicly, expressed remorse, and vowed not to repeat it. Petitioner also felt remorseful about not being able to take care of family financially and pay his debt to society, and asked the rabbi for help finding a job.

34. Petitioner offered character reference letters in support of his Petition, signed under penalty of perjury by Homayoun Sharim, M.D., and Hossain Sahlolbei, M.D.

a. Dr. Sharim, a family friend, wrote, in a letter dated December 10, 2019, that he has known petitioner for over 30 years. He is aware of the circumstances leading to petitioner's criminal convictions and the revocation of his medical license. "Knowing him as well as I do, I can relay to the Board the sincere and genuine repentance he feels for violating the principles he had worked so diligently to uphold throughout his life. . . . [¶] I trust [petitioner] and respect him as a dedicated physician in his field. . . . I have experienced his integrity, commitment, and love of the profession on numerous occasions. Allowing him to have his medical license reinstated will be of great service to the community. [¶] He has made significant reformatory strides that I am aware of to reinvent himself," such as his volunteer activities, his obtaining psychotherapy, and his attending ethics and boundary seminars at the UCI School of Medicine. Petitioner cultivates good virtues to prevent relapses and to protect patients and the public. "His present character could in no way be tempted to repeat his prior or any misdeeds." (Ex. I)

b. Dr. Sahlolbei wrote, in a letter dated September 5, 2019, that he has known petitioner for nearly 20 years. He is familiar with the circumstances leading to petitioner's license revocation. Petitioner has openly and honestly discussed and expressed his regrets about his fraudulent business practices. "He now has a better appreciation of boundaries to prevent lapses of judgement that can harm his, his patients, his practice and his family." (Ex. H.) Petitioner has pursued rehabilitation by performing charitable work, participating in therapeutic programs and psychotherapy, continuing his medical education, and participating in AA. "I believe he is sincere in his

rehabilitation effort, his remorse, and desire to go forward on an honest path in the future practice of medicine." (*Ibid.*)¹

35. Petitioner has testified he learned, through the many programs he has taken and many years of therapy, the impact his wrongdoing had on others. He knows he betrayed the public, disappointed his family, and alienated his friends. Petitioner is ashamed that he is still tying up state resources. He has been poor for some time, but that has not changed the good values that guide his conduct.

36. If his license is reinstated, petitioner wishes to work in a general practice full time as a salaried employee of a clinic or hospital or medical group. That would allow him to serve and to have a meaningful impact on public health and welfare. Petitioner currently has received two verbal offers of employment, one from a West Covina Hospital doctor, and one from Dr. Sharim.

¹ In a Decision in case no. 09-2012-228346 effective November 3, 2017, the Board adopted a Stipulated Settlement and Disciplinary Order revoking physician's and surgeon's certificate no. G84450 issued to Dr. Sahlolbei, staying the revocation, and placing Dr. Sahlolbei on four years' probation, which is set to end in November of this year. The underlying First Amended Accusation (FAA) alleged that Dr. Sahlolbei was convicted in state court of violating Penal Code section 487 (grand theft), and that the California Supreme Court reversed the conviction and remanded the matter for further proceedings, which were pending when the FAA was filed. The FAA also alleged counts for gross negligence, repeated negligent acts, and general unprofessional conduct. (See ex. 8.)

LEGAL CONCLUSIONS

1. A person whose certificate has been revoked may petition the Board for reinstatement. "The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons certificated in any state who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed." (Bus. & Prof. Code, § 2307, subd. (c).)

2. The ALJ hearing the petition "may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability." (Bus. & Prof. Code, § 2307, subd. (e).) The ALJ may recommend reinstating a certificate and imposing probationary terms and conditions. (Bus. & Prof. Code, § 2307, subd. (f).)

3. In a proceeding to reinstate a revoked certificate, the burden rests on the petitioner to prove rehabilitation and entitlement to a restored certificate. (*Flanzer v. Bd. of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The petitioner must present proof of rehabilitation strong enough to overcome the Board's former adverse determination. (*Hippard v. State Bar of California* (1989) 49 Cal.3d 1084, 1092-1093.) The standard of proof is clear and convincing evidence to a reasonable certainty. (*Id.*; *Housman v. Bd. of Medical Examiners* (1948) 84 Cal.App.2d 308.) Petitioner has sustained his burden of proof.

4. Acts of fraud and dishonesty vitiate the obligation of utmost honesty and integrity doctors owe to their patients. (See *Windham v. Board of Medical Quality Assurance* (1980) 104 Cal. App. 3d 461, 470.) Protection of the public "shall be the highest priority" for the Board in exercising disciplinary authority. (Bus. & Prof. Code, § 2229.) In considering license disciplinary action or relief from such action, an ALJ "shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence." (Bus. & Prof. Code, § 2229, subd. (b).) The ALJ is to consider such criteria as the nature and severity of the petitioner's act or crime, the time elapsed since the act or crime, subsequent acts or crimes, compliance with criminal probation, expungement of any conviction, and other evidence of rehabilitation. (Cal. Code Regs, tit. 16, §§ 1360.1, 1360.2.) "Where rehabilitation and protection are inconsistent, protection shall be paramount." (Bus. & Prof. Code, § 2229, subd. (c).)

5. Petitioner engaged in significant acts of misconduct of various different kinds over a significant period of time. Nevertheless, petitioner has convincingly demonstrated rehabilitation, as set forth in Factual Findings 14 through 36. His commitment to honest business practices, ethics, and respecting boundaries, and his impressive rehabilitative programs and commitment to therapy, his volunteer work, and his assiduous pursuit of continuing medical education, demonstrate that, with effective terms and conditions of probation that will ensure petitioner's medical skills are current, monitor his ongoing rehabilitation, and protect the public, petitioner will not continue to pose a threat to the public if the Board were to reinstate his certificate.

6. Cause exists, therefore, under Business and Professions Code section 2307, to grant petitioner's request for reinstatement of his certificate, under terms and

conditions, as it would be consistent with public interest, based on Factual Findings 3 through 36.

ORDER

The Petition of petitioner Pez Abrahams is granted. Physician's and Surgeon's Certificate no. A 71500 is reinstated. That certificate is, however, immediately revoked, the revocation is stayed, and petitioner's certificate is placed on probation for five years on the following terms and conditions.

1. Clinical Competence Assessment Program

Within 120 calendar days of the effective date of this Decision, petitioner shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Petitioner shall successfully complete the program not later than six months after petitioner's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of petitioner's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to petitioner's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require petitioner's on-site participation for a minimum of three and no more than five days as determined by the

program for the assessment and clinical education evaluation. Petitioner shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the petitioner has demonstrated the ability to practice safely and independently. Based on petitioner's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting petitioner's practice of medicine. Petitioner shall comply with the program's recommendations.

Determination as to whether petitioner successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

Petitioner shall not practice medicine until petitioner has successfully completed the program and has been so notified by the Board or its designee in writing.

2. Education Course

Within 90 calendar days of the effective date of this Decision, and on an annual basis thereafter, petitioner shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at petitioner's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its

designee may administer an examination to test petitioner's knowledge of the course. Petitioner shall provide proof of attendance for 65 hours of CME of which 40 hours are in satisfaction of this condition.

3. Psychiatric Evaluation

Within 60 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, petitioner shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Petitioner shall pay the cost of all psychiatric evaluations and psychological testing.

Petitioner shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

4. Psychotherapy

Within 60 calendar days of the effective date of this Decision, petitioner shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, petitioner shall undergo and continue psychotherapy treatment, including any

modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Petitioner shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Petitioner shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. If, prior to the completion of probation, petitioner is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over petitioner's license and the period of probation shall be extended until the Board determines that petitioner is mentally fit to resume the practice of medicine without restrictions.

Petitioner shall pay the cost of all psychotherapy and psychiatric evaluations.

5. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, petitioner shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Petitioner shall participate in and successfully complete that program. Petitioner shall provide any information and documents that the program may deem pertinent. Petitioner shall successfully complete the classroom component of the program not later than six (6) months after petitioner's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom

component. The professionalism program shall be at petitioner's expense and shall be in addition to the CME requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the First Amended Accusation in case no. 17-2007-184776 and in the Accusation in case no. D1-2007-184776, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Petitioner shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

6. Professional Boundaries Program

Within 60 calendar days from the effective date of this Decision, petitioner shall enroll in a professional boundaries program approved in advance by the Board or its designee. Petitioner, at the program's discretion, shall undergo and complete the program's assessment of petitioner's competency, mental health and/or neuropsychological performance, and at minimum, a 24-hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or its designee deems relevant. The program shall evaluate petitioner at the end of the training and the program shall provide any data from the assessment and training as well as the results of the evaluation to the Board or its designee.

Failure to complete the entire program not later than six months after petitioner's initial enrollment shall constitute a violation of probation unless the Board or its designee agrees in writing to a later time for completion. Based on petitioner's performance in and evaluations from the assessment, education, and training, the program shall advise the Board or its designee of its recommendation(s) for additional education, training, psychotherapy and other measures necessary to ensure that petitioner can practice medicine safely. Petitioner shall comply with program recommendations. At the completion of the program, petitioner shall submit to a final evaluation. The program shall provide the results of the evaluation to the Board or its designee. The professional boundaries program shall be at petitioner's expense and shall be in addition to the CME requirements for renewal of licensure.

The program has the authority to determine whether or not petitioner successfully completed the program.

A professional boundaries course taken after the acts that gave rise to the charges in the First Amended Accusation in case no. 17-2007-184776 and in the Accusation in case no. D1-2007-184776, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

If petitioner fails to complete the program within the designated time period, petitioner shall cease the practice of medicine within three (3) calendar days after being notified by the Board or its designee that petitioner failed to complete the program.

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7. Third Party Chaperone

During probation, petitioner shall have a third-party chaperone present while consulting, examining or treating female patients. Petitioner shall, within 60 calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third-party chaperone.

If petitioner fails to obtain approval of a third-party chaperone within 90 calendar days of the effective date of this Decision, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Petitioner shall cease the practice of medicine until a chaperone is approved to provide monitoring responsibility.

Each third-party chaperone shall sign (in ink or electronically) and date each patient medical record at the time the chaperone's services are provided. Each third-party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third-party chaperone.

Petitioner shall maintain a log of all patients seen for whom a third-party chaperone is required. The log shall contain the: (1) patient initials, address and telephone number; (2) medical record number; and (3) date of service. Petitioner shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

Petitioner is prohibited from terminating employment of a Board-approved third-party chaperone solely because that person provided information as required to the Board or its designee.

If the third-party chaperone resigns or is no longer available, petitioner shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name of the person(s) who will act as the third-party chaperone. If petitioner fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or unavailability of the chaperone, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement chaperone is approved and assumes monitoring responsibility.

8. Monitoring - Practice/Billing

Within 60 calendar days of the effective date of this Decision, petitioner shall submit to the Board or its designee for prior approval as practice and billing monitors, the names and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with petitioner, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in petitioner's field of practice, and must agree to serve as petitioner's monitor. Petitioner shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and

Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 90 calendar days of the effective date of this Decision, and continuing throughout probation, petitioner's practice and billing shall be monitored by the approved monitor. Petitioner shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If petitioner fails to obtain approval of a monitor within 90 calendar days of the effective date of this Decision, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Petitioner shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitors shall submit quarterly written reports to the Board or its designee which includes an evaluation of petitioner's performance, indicating whether petitioner's practices are within the standards of practice of medicine or billing, or both, and whether petitioner is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of petitioner to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, petitioner shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming

that responsibility within 15 calendar days. If petitioner fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, petitioner may participate in a professional enhancement program approved in advance by the Board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Petitioner shall participate in the professional enhancement program at petitioner's expense during the term of probation.

9. Solo Practice Prohibition

Petitioner is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: (1) petitioner merely shares office space with another physician but is not affiliated for purposes of providing patient care; or (2) petitioner is the sole physician practitioner at that location.

If petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 120 calendar days of the effective date of this Decision, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. The petitioner shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, petitioner's practice setting changes and the petitioner is no longer practicing in a setting in compliance with this Decision, the

petitioner shall notify the Board or its designee within five calendar days of the practice setting change. If petitioner fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, petitioner shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Petitioner shall not resume practice until an appropriate practice setting is established.

10. Notification

Within seven days of the effective date of this Decision, petitioner shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to petitioner, at any other facility where petitioner engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to petitioner. Petitioner shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

11. Supervision of Physician Assistants and Advanced Practice Nurses

During probation, petitioner is prohibited from supervising physician assistants and advanced practice nurses.

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12. Obey All Laws

Petitioner shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

13. Quarterly Declarations

Petitioner shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Petitioner shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

14. General Probation Requirements

Compliance with Probation Unit

Petitioner shall comply with the Board's probation unit.

Address Changes

Petitioner shall, at all times, keep the Board informed of petitioner's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

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Place of Practice

Petitioner shall not engage in the practice of medicine in petitioner's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Petitioner shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Petitioner shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

In the event petitioner should leave the State of California to reside or to practice petitioner shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

15. Interview with the Board or its Designee

Petitioner shall be available in person upon request for interviews either at petitioner's place of business or at the probation unit office upon reasonable prior notice throughout the term of probation.

16. Non-practice While on Probation

Petitioner shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar

days of petitioner's return to practice. Non-practice is defined as any period of time petitioner is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If petitioner resides in California and is considered to be in non-practice, petitioner shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve petitioner from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event petitioner's period of non-practice while on probation exceeds 18 calendar months, petitioner shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Petitioner's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a petitioner residing outside of California, will relieve petitioner of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of

probation: Obey All Laws; General Probation Requirements; and Quarterly Declarations.

17. Completion of Probation

Petitioner shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, petitioner's certificate shall be fully restored.

18. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If petitioner violates probation in any respect, the Board, after giving petitioner notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against petitioner during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

19. License Surrender

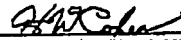
Following the effective date of this Decision, if petitioner ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, petitioner may request to surrender his or her license. The Board reserves the right to evaluate petitioner's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, petitioner shall within 15 calendar days deliver petitioner's wallet and wall certificate to the Board or its designee and petitioner shall no longer practice medicine. Petitioner

will no longer be subject to the terms and conditions of probation. If petitioner re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

20. Probation Monitoring Costs

Petitioner shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

DATE: 03/30/2021


Howard W. Cohen (Mar 30, 2021 10:49 PDT)
HOWARD W. COHEN

Administrative Law Judge

Office of Administrative Hearings